

**Subject:** Re: Foreclosure Docs - Loan# 9160059398 - Keith Rosario  
**From:** "Michal Falkowski" <[mfalkowski@rflegal.net](mailto:mfalkowski@rflegal.net)>  
**Sent:** 1/20/2021 9:13:57 AM  
**To:** "Eitan Korb" <[eitan@crosbycapitalusa.com](mailto:eitan@crosbycapitalusa.com)>;  
**CC:** "Phally Eng" <[peng@trustfci.com](mailto:peng@trustfci.com)>; "Monica Kinsman" <[mkinsman@trustfci.com](mailto:mkinsman@trustfci.com)>; "Daniel Richland" <[drichland@rflegal.net](mailto:drichland@rflegal.net)>;  
**Attachments:** R & F engagement letter - crosby capital.pdf; CONSENT AND WAIVER - Crosby Capital.pdf

Eitan, good morning,

I will review it today. In the interim kindly find attached hereto our firm's engagement letter and conflict waiver form.

Very truly yours,

**Michal Falkowski, Esq.**

*Richland & Falkowski, PLLC*  
35-37 36th Street, 2nd Fl.  
Astoria, NY 11106  
212-390-8872 - Phone ext. 403  
212-390-8873 - Fax  
[mfalkowski@rflegal.net](mailto:mfalkowski@rflegal.net)  
[www.rflegal.net](http://www.rflegal.net)

Orange County Office:

5 Fairlawn Drive, Suite 204  
Washingtonville, NY 10992

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On Wed, Jan 20, 2021 at 9:03 AM Eitan Korb <[eitan@crobycapitalusa.com](mailto:eitan@crobycapitalusa.com)> wrote:

Hi Michal,

Kindly following up on this. Could you please send the executed vetting agreement to Phally for the Foreclosure of Keith Rosario ? Thank you !

Best Regards,

**Eitan Korb**

Crosby Capital | O: 786.475.5344 | M: 917.400.3129

[60 Madison Avenue - 11th Floor. New York, NY 10010](#)

[1688 Meridian Avenue - 6th Floor. Miami Beach, FL 33139](#)

[www.crobycapitalusa.com](http://www.crobycapitalusa.com)

Le mer. 6 janv. 2021 à 19:20, Phally Eng <[peng@trustfci.com](mailto:peng@trustfci.com)> a écrit :

Good afternoon Michael

Eitan asked me to send you a vetting package – please see attached. Please let me know if I may assist with anything else.

Thanks!

**Phally Eng**

Foreclosure Specialist



FCI Lender Services

8180 East Kaiser Blvd.

Anaheim Hills, CA 92808

(800) 931-2424 x 457

Fax: (714) 282-2425

[peng@trustfci.com](mailto:peng@trustfci.com)

[www.trustfci.com](http://www.trustfci.com)

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**From:** Michal Falkowski <[mfalkowski@rlegal.net](mailto:mfalkowski@rlegal.net)>

**Sent:** Thursday, December 31, 2020 8:27 AM

**To:** Phally Eng <[peng@trustfci.com](mailto:peng@trustfci.com)>

**Subject:** Re: Foreclosure Docs - Loan# 9160059398 - Keith Rosario

Phally, good morning,

Kindly see the attached. Please note that I do not have proof of the step2 filing as that was presumably taken care of by the prior loan servicer, SN Servicing Corp.

Let me know if you need anything else.

Very truly yours,

**Michal Falkowski, Esq.**  
*Richland & Falkowski, PLLC*  
35-37 36th Street, 2nd Fl.  
Astoria, NY 11106  
212-390-8872 - Phone ext. 403

212-390-8873 - Fax

[mfalkowski@rflegal.net](mailto:mfalkowski@rflegal.net)

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On Tue, Dec 29, 2020 at 1:42 PM Phally Eng <[peng@trustfci.com](mailto:peng@trustfci.com)> wrote:

Good afternoon Michal,

May I please request your assistance with providing copies of the foreclosure documentation on this account? We don't have anything on file and I would appreciate it very much, so that we can properly update our foreclosure milestones and suspend late charges. Please provide a copy of the:

30 Day Notice

90 Day Notice

Step 1 Filing

Title Report

Filed Complaint

Step 2 Filing

Service Returns

Thank you!

*Our offices will be closed 12/31/20 & 01/01/21 in observance of the New Year holiday. Happy Holidays!*



**Phally Eng**

Foreclosure Specialist



FCI Lender Services

8180 East Kaiser Blvd.

Anaheim Hills, CA 92808

(800) 931-2424 x 457

Fax: (714) 282-2425

[peng@trustfci.com](mailto:peng@trustfci.com)

[www.trustfci.com](http://www.trustfci.com)

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**RICHLAND & FALKOWSKI, PLLC**  
ATTORNEYS AT LAW

QUEENS COUNTY OFFICE:  
35-37 36<sup>TH</sup> STREET, 2<sup>ND</sup> FLOOR  
ASTORIA, NY 11106

ORANGE COUNTY OFFICE:  
5 FAIRLAWN DRIVE, SUITE 204  
WASHINGTONVILLE, NY 10992

PHONE: (212) 390-8872  
FAX: (212) 390-8873  
EMAIL: [mfalkowski@rflegal.net](mailto:mfalkowski@rflegal.net)

January 19, 2021

Via Electronic Mail to [eitan@crosbycapitalusa.com](mailto:eitan@crosbycapitalusa.com)  
Crosby Capital USA  
Attn.: Eitan Korb

RE: *Plaintiff-Side Residential Mortgage Foreclosure Representation*

Dear Mr. Korb:

Thank you for choosing to retain the services of the Richland & Falkowski, PLLC (“the Firm”). Pursuant to Part 1215 of the Joint Rules of the Appellate Division, this letter sets forth the scope and terms of the retention:

**1. IDENTITY OF CLIENTS AND WAIVER OF POTENTIAL CONFLICT OF INTEREST.**

Pursuant to this Retainer, This Firm will be representing the interests of you, Crosby Capital USA (the “Client”) ONLY. This Firm does not represent any other related entity or subsidiary, including Windward Bora LLC and Milky Way II, LLC. Nor does the Firm represent Mr. Yonel Devico personally.

**2. SCOPE OF REPRESENTATION; REPRESENTATION LIMITED.**

The Firm office will represent the Client in plaintiff-side residential mortgage foreclosure actions in New York State, as per the annexed fee schedule. This retainer does not include appellate representation or post-judgment enforcement activities. This retainer also does not apply to any other or further services in connection with any other matter, action, or proceeding unless set forth in a subsequent writing.

**3. CONTACT AND COMMUNICATION WITH THE FIRM.**

The Firm will endeavor to keep you fully advised with respect to the significant events occurring during the course of the representation. Should you have any questions or concerns at all, please communicate them to the Firm, and more specifically, Michal Falkowski, Esq.

Other attorneys, of counsels, paralegals, or administrative support staff may also perform work in connection with your representation and the Firm reserves the right to assign or delegate work in connection with your representation at the sole discretion of the Firm.

The Firm communicates with its clients by telephone, mail, fax, e-mail and personal contact.

You should be aware that communication by e-mail is not a secure a means of communication and it is possible that others may have access to our communications by this method. If you have confidentiality concerns about communication by e-mail and prefer not to utilize this method of communication, please let us know.

The Firm will send you documents, correspondence and other information throughout the representation. These copies will be your file copies. The Firm will also keep the information in a file in our office which will be our file. Please bring your copy of the file to any necessary meetings so that you have all of the necessary information in hand.

**4. FILE RETENTION.**

At the conclusion of the representation, should you desire a paper copy of those portions of the file that are considered the client's, please let us know and we will have a copy made for you at your expense.

Otherwise, it is our office policy to provide you with a digital copy of the entire case file (usually in PDF format) at no charge, and the Firm will retain the files for a period of seven years, running from the conclusion of the representation, at which time the files will be destroyed unless you notify us in writing of your desire to have the complete file turned over to you.

**5. CLIENTS RIGHTS AND RESPONSIBILITIES.**

The Appellate Divisions of the State of New York have enacted a Statement of Client's Rights, a copy of which is attached hereto. Also attached is a copy of the Statement of Client's Responsibilities which was promulgated at the same time. By executing this Retainer, you are acknowledging your receipt and review of these documents. If you have any question about the content of either of these documents, please let us know.



**6. FEES AND BILLING PURSUANT TO THIS RETAINER; CHANGE IN TERMS.**

It is agreed between the parties that the Firm will represent you, pursuant to this Retainer, at the rates contained in the annexed fee schedule.

You will also be charged for customary and usual expenses and costs incurred on your behalf in the course of the litigation, including but not limited to filing fees, photocopy, long distance telephone, fax, transcripts, postage, overnight delivery, messengers, computer legal research and other related expenses. At our option we may forward to you for direct payment any disbursement in excess of \$500.00. It is this office's policy not to charge our client any disbursements which total less than \$5.00, and to instead provide those services at the law firm's expense.

**7. ARBITRATION.**

In the event a dispute arises between us relating to our fees, you may have the right to arbitrate the dispute under Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

**8. TERMINATION OF THE RELATIONSHIP.**

Our representation of you will continue through the conclusion of this matter, until otherwise agreed in writing, or until you decide to terminate this retainer.

In the event fees earned under this agreement are not remitted in a timely fashion, the Firm reserves the right to withdraw from this representation, subject, of course, to the requirements of the Code of Professional Responsibility and the rules of the tribunal in question.

This agreement is a binding contract. As a result, if any of the information in this letter is not consistent with your understanding of our agreement, please contact me before signing this agreement.

Otherwise, please sign the agreement and return it to me at your earliest convenience. On behalf of the Firm, we are grateful that you have selected us to represent you and we hope to offer you services that meet and exceed your expectations.

Should you have any questions regarding the above, please do not hesitate to contact me. I remain,

Very truly yours,

Michal Falkowski, Esq.

I have read this letter and consent to the terms of this agreement.

CROSBY CAPITAL USA

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Eitan Korb

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Dated

**RESIDENTIAL MORTGAGE FORECLOSURE:**  
**UNCONTESTED MORTGAGE FORECLOSURE - LEGAL FEES:**

<b>Pre-Commencement through Filing of Foreclosure Complaint:</b>	<b>\$2,000.00</b>
including:	
a. Initial File Review	
b. Review of Foreclosure Search	
c. Preparation of Summons and Complaint	
d. Preparation of Notice of Pendency	
e. Preparation of Certificate of Merit, if applicable	
f. Compliance with HPD Local Law 4, if applicable	
 <b>Court Appearances (per diem flat fee):</b>	 <b>\$500.00</b>
a. Hourly for DHR and MF to appear (\$250 per hour)	
b. Travel for DHR and MF is billed hourly (\$250 per hour)	
 <b>OPTIONAL: Preparation of Motion to Appoint a Receiver:</b>	 <b>\$750.00</b>
a. \$250.00 additional fee where mortgage does not provide for a receiver	
 <b>Preparation of Order of Reference:</b>	 <b>\$750.00</b>
a. Reply papers and opposition papers to any cross-motion are are billed hourly (\$250 per hour)	
 <b>ALTERNATE: Preparation of Summary Judgment:</b>	 <b>\$1,500.00</b>
a. Reply papers and opposition papers to any cross-motion are are billed hourly (\$250 per hour)	
 <b>Preparation of Judgment of Foreclosure and Sale:</b>	 <b>\$750.00</b>
a. Reply papers and opposition papers to any cross-motion are are billed hourly (\$250 per hour)	
 <b>Preparation of Referee's Deed and Transfer Documents:</b>	 <b>\$750.00</b>
a. Including Referee's Report of Sale	
b. Including Surplus Money Auction Form	
 <b>Attendance at Third Party Closing:</b>	 <b>\$750.00</b>
 <b>Preparation of Motion for Deficiency Judgment:</b>	 <b>\$750.00</b>
a. Reply papers and opposition papers to any cross-motion are are billed hourly (\$250 per hour)	
 <b>Preparation of Notice/Stipulation of Discontinuance and Cancellation of Notice of Pendency, Plus Affirmation in Support:</b>	 <b>\$250.00</b>

**Preparation of Motion to Discontinue:**

**\$500.00**

*All fees are exclusive of court, filing, postage, and recording fees, such as for assignments of mortgage, obtaining an index number, notice of pendency, RJI, transfer tax, etc., and exclusive of vendor costs, such as service of process, foreclosure search fee, etc.*

## **Statement of Clients' Responsibilities**

1. The client is expected to treat the lawyer and the lawyer's staff with courtesy and consideration.
2. The client's relationship with the lawyer should be one of complete candor and the client should apprise the lawyer of all facts or circumstances of the matter being handled by the lawyer even if the client believes that those facts may be detrimental to the client's cause or unflattering to the client.
3. The client must honor the fee arrangement as agreed to with the lawyer to the extent required by law.
4. All bills tendered to the client for services rendered pursuant to the agreed upon arrangement regarding fees and expenses should be paid when due.
5. A client who discharges the attorney and terminates the attorney-client relationship must nevertheless honor financial commitments under the agreed to arrangement regarding fees and expenses to the extent required by law.
6. Although the client should expect that his or her letters, telephone calls, emails, faxes and other communications to the lawyer will be answered within a reasonable time, the client should recognize that the lawyer has other clients who may be equally deserving of the lawyer's time and attention.
7. The client should maintain contact with the lawyer, promptly notify the lawyer of any change in telephone number, address, email, or other electronic contact information, and respond promptly to a request from the lawyer for information and cooperation.
8. The client must realize that the lawyer is required to respect only legitimate objectives of the client and that the lawyer will not advocate or propose positions that are unprofessional or contrary to law or the New York Rules of Professional Conduct.
9. The lawyer may decline to accept a matter of the lawyer has previous personal or professional commitments that will prohibit the lawyer from devoting adequate time to representing the client competently and diligently.
10. A lawyer is under no obligation to accept a client if the lawyer determines that the cause of the client is without merit, a conflict of interest would exist or a suitable working relationship with the client is not likely.

## **Statement of Clients' Rights**

### **Section 1210.1 of the Joint Rules of the Appellate Division (22NYCRR§1210.1)**

1. You are entitled to be treated with courtesy and consideration at all times by your lawyer and the other lawyers and personnel in your lawyer's office.
2. You are entitled to an attorney capable of handling your legal matter competently and diligently, in accordance with the highest standards of the profession. If you are not satisfied with how your matter is being handled, you have the right to withdraw from the attorney-client relationship at any time (court approval may be required in some matters and your attorney may have a claim against you for the value of services rendered to you up to the point of discharge).
3. You are entitled to your lawyer's independent professional judgment and undivided loyalty uncompromised by conflicts of interest.
4. You are entitled to be charged a reasonable fee and to have your lawyer explain at the outset how the fee will be computed and the manner and frequency of billing. You are entitled to request and receive a written itemized bill from your attorney at reasonable intervals. You may refuse to enter into any fee arrangement that you find unsatisfactory. In the event of a fee dispute, you may have the right to seek arbitration; your attorney will provide you with the necessary information regarding arbitration in the event of a fee dispute, or upon your request.
5. You are entitled to have your questions and concerns addressed in a prompt manner and to have your telephone calls returned promptly.
6. You are entitled to be kept informed as to the status of your matter and to request and receive copies of papers. You are entitled to sufficient information to allow you to participate meaningfully in the development of your matter.
7. You are entitled to have your legitimate objectives respected by your attorney, including whether or not to settle your matter (court approval of a settlement is required in some matters).
8. You have the right to privacy in your dealings with your lawyer and to have your secrets and confidences preserved to the extent permitted by law.
9. You are entitled to have your attorney conduct himself or herself ethically in accordance with the Code of Professional Responsibility.
10. You may not be refused representation on the basis of race, creed, color, religion, sex, sexual orientation, age, national origin or disability.

**CONSENT AND WAIVER**

I, Eitan Korb, on behalf of Crosby Capital USA (“Crosby Capital”), do hereby acknowledge that Daniel H. Richland, Esq. and Michal Falkowski, Esq. of Richland & Falkowski, PLLC (“the Firm”), advised me of their potential conflict of interest in their representation of Crosby Capital USA relating to plaintiff-side residential mortgage foreclosure actions and specifically, the action captioned *BCMBI Trust v. Rosario*, under Index No. EF004711-2020 in the Orange County Supreme Court.

The Firm has disclosed to me that they are the attorneys of record for Stuyvesant Construction Corp., Mamadu I. Barrie a/k/a Mamadu Barrie and Edward Johnson (the “Current Clients”), defendants in three separate civil actions which have been brought by certain entities which may be subsidiaries of or related to Client. The three civil actions are as follows:

- a) *Windward Bora LLC v. Stuyvesant Construction Corp., et al.*, under Case No. 19-cv-07275, currently pending in the United States District Court, Eastern District of New York;
- b) *Windward Bora LLC v. Barrie et al.*, under Case No. 19-cv-07272, currently pending in the United States District Court, Eastern District of New York;
- c) *Milky Way II, LLC v. Edward Johnson*, under Index No. 150288/2017, currently pending in the New York County Supreme Court.

The Firm has also disclosed to me that, other than the aforementioned actions, the Firm does not have any other business dealings with Mamadu I. Barrie or Edward Johnson. The Firm has also disclosed to me that they have extensive business and legal dealings with the principal of Stuyvesant Construction Corp. and her other entities and have represented in the past, presently represent, and will continue to represent the principal of Stuyvesant Construction Corp., and her entities, on other, unrelated matters.

With respect to all of the foregoing, I have been repeatedly advised by the Firm that I have a right to independent counsel, that I should speak with independent counsel, and I either have spoken with independent counsel or waived that right. Accordingly, I hereby consent to the Firm’s representation of both the Current Clients and Crosby Capital and waive any potential conflict of interest on behalf of Crosby Capital.

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Eitan Korb, on behalf of  
Crosby Capital USA

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Dated: